

REMARKS

Claims 3, 7-9, 11 and 13-16 remain pending in the application. Claims 19-28 are now cancelled. Claim 29 has been added. Minor amendments have been made to the claims to simply overcome the objections to the specification and rejections of the claims under 35 U.S.C. § 112. The amendments to the claims contained herein are intended to be of at least equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 3, 7, 9-11 and 13-16 currently stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. In this regard the Examiner notes in particular that no basis or support is found for the term "about" in various claims. In response, Applicant has deleted the term throughout the remaining claims. Reconsideration is therefore respectfully requested.

The Examiner also notes that the values of 2.236 to 140.60 unit/ml are only supported by the specific II CB-411 strain of *Termitomyces clypeatus*. In response, Applicant has amended claim 3 to limit to this defined species. Reconsideration is therefore respectfully requested. Additionally, with regard to claim 7, the Examiner notes that the value of 140.60 units is only achieved with the specific strain of *Termitomyces clypeatus* now recited in claim 3 when the carbon source is mannose.

As a result, the Examiner has held that the recitation of carbon sources in claim 7 constitute new matter. This rejection is respectfully traversed.

Applicant respectfully submits that they are not obligated to present data on each and every carbon source recited, particularly where the claims are limited to a distinct species. Regardless, Applicant noted on page 7 of the specification as filed that various assimilable carbon sources were useful and further noted that cellobiase appeared to be the best carbon source for growth of the particular fungus. Reconsideration is respectfully requested.

Lastly, the Examiner has noted that there are certain deficiencies with regard to the deposit information. In view of the identified deficiencies, Applicant has amended the specification in an effort to address all identified deficiencies. In particular, Applicant notes that the deposit referred to in the appended Budapest Treaty document is irrevocable and that provisions for maintaining the deposited strain are clearly set forth. In support of the deposit information, Applicant has appended a clean copy of the previously submitted Deposit Certificate.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: December 17, 2004

By: 
Robert M. Siminski
Reg. No. 36,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

RMS/de